

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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VAUGHN SCOTT, NIGERIA SCOTT, PRINCE SCOTT,
ANDREE HARRIS, BRENDA SCOTT, KRAIG UTLEY,
COREY MARROW, AS A MINOR CHILD, K.M., A
MINOR CHILD, and JULIAN RENE,

Plaintiffs,

-against-

THE CITY OF MOUNT VERNON, et al.,

Defendants.
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DEPOSITION OF TIMOTHY BRILEY

Mount Vernon, New York

November 17, 2016

11:05 a.m.

Reported By:
Cheryll Kerr, RPR, SHR
Job No. 41836

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2
3 Timothy Briley

4 November 17, 2015

5 11:05 a.m.
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8 Deposition of Timothy Briley, held at the
9 Roosevelt Square Professional Building, 11 West
10 Prospect Avenue, Mount Vernon, New York, pursuant
11 to Notice, before Cheryll Kerr, RPR, SHR and
12 Notary Public, in and for the State of New York.
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1 Q Okay.

2 Would it be fair to say you were driving around
3 Mount Vernon with the purpose of potentially
4 observing drug activity?

5 A Well, at the time --

6 At the time, I don't remember exactly if we
7 were driving or if it was more that we were waiting
8 for phone calls from our confidential informants.

9 Q Okay.

10 Did there come a time when you received a call
11 concerning a shooting on March 20th, 2013?

12 A I believe --

13 It was a radio transmission, I believe, stating
14 that an individual had been shot in the area of
15 Fifth Avenue and Third Street, I believe. That was
16 basically what I heard.

17 Q Okay.

18 Other than what you told me that you heard over
19 the radio, was there anything else that -- was there
20 any other information given to you in that radio
21 transmission?

22 A I believe also, as stated, that the
23 injured party was placed inside the vehicle and left
24 the scene.

25 Q Okay.

1 (Pause)

2 BY MR. JOHNSON:

3 Q Were you given a description of the
4 vehicle?

5 A I'm almost sure we did, but I don't
6 recall.

7 Q Okay.

8 Do you recall what time of day or night it was
9 that you received that call?

10 A A hundred percent?

11 No. I would say -- early afternoon, I would
12 say.

13 Q Okay.

14 Were you given any other information about the
15 individuals that you have just described?

16 A None that I recall.

17 Q Okay.

18 Were you asked to do anything in response to
19 that radio call?

20 A I don't believe we were, but we took the
21 initiative to see if we could actually canvass the
22 area.

23 Q Okay. When you say "canvass the area,"
24 what do you mean?

25 A Basically to drive around the block to

1 see if we could see the vehicle that might match the
2 description.

3 Q And did you see a vehicle that matched
4 that description?

5 A No, I did not.

6 (Pause)

7 BY MR. THOMPSON:

8 Q Did there come a point in time when you
9 went to the apartment of the plaintiffs?

10 A What apartment would that be, sir?

11 Q It's 328 South Second Street, Mount
12 Vernon, New York.

13 A Second Avenue?

14 Q South Second Street.

15 A No, South Second Avenue.

16 Q Okay, so regardless of what the address
17 is --

18 A Right.

19 Q -- did you go to that apartment?

20 A Yes, we did.

21 Q Okay.

22 When you arrived at the apartment, were you the
23 first officers there?

24 A No. As I -- as I recall, there were
25 officers there before us.

1 substance of conversations, or something else?

2 A The substance of conversation.

3 Q Okay.

4 Other than what you have mentioned so far, do
5 you recall observing any of the occupants of the
6 building who were not police doing anything?

7 A No.

8 Q How long were you there?

9 A If I were to guess, maybe a half an hour.
10 Forty minutes, at best.

11 Q Okay.

12 Now, I believe you mentioned earlier that you
13 were at the top of the stairs for about five or 10
14 minutes, correct?

15 A Uh-huh, yes.

16 Q Did you at some point leave the top of
17 the stairs and go somewhere else?

18 A I went within the apartment.

19 Q Okay. Why was that?

20 A I was instructed to.

21 Q By whom?

22 A Sergeant Sexton.

23 Q For what purpose?

24 A That -- you would have to ask him. I
25 just followed an order.

1 Q Okay.

2 To the best of your recollection, the sole
3 context of that order was to direct you to enter the
4 apartment?

5 A Yes.

6 Q Okay. When you entered the apartment,
7 what did you do?

8 A I stood there awaiting any further
9 orders.

10 Q Okay. Where did you stand?

11 A If you enter the apartment facing the
12 front door, I was on the far right-hand side.

13 Q Okay. Was this in the living room, or
14 something else?

15 A Well, the living room was that connected
16 kitchen area, so I could see the kitchen on the
17 right-hand side, the living room -- the open area in
18 front of me.

19 Q Okay.

20 It sounds like you were standing sort of on the
21 border of the kitchen and the living room; is that
22 fair to say?

23 A That's fair to say.

24 Q How long did you stand in that location?

25 A An approximate?

1 I stayed the entire -- I didn't move from that
2 area. I stood right there the entire time I was in
3 the apartment.

4 Q Okay.

5 A I didn't move around.

6 Q So other than standing there, you did
7 nothing while in the apartment;

8 Is that correct?

9 A That's correct.

10 Q All right. Did you --

11 While you were standing there, did you have any
12 conversations with any of the occupants?

13 A No, I did not.

14 Q Did you overhear any conversations
15 involving the occupants?

16 A The only conversation I heard was how one
17 of them was screaming for the mother not to speak to
18 us. That was about it.

19 Q Okay.

20 Which one of them was screaming for the mother
21 not to speak to you?

22 A The only one I knew there, Prince.
23 Prince Scott.

24 Q Okay.

25 (Pause)

1 The supervisor on the scene had a
2 very good control of the situation, and
3 when a supervisor is speaking and making a
4 report with somebody, you don't like to
5 interrupt.

6 BY MR. THOMPSON:

7 Q Okay, and who was he making the report
8 with?

9 A The mother.

10 Q Okay. How did you know that he was
11 making a report?

12 A The conversation between the two -- they
13 were laughing.

14 when I actually did look back at them, they
15 were laughing back and forth with each other.

16 Q Okay.

17 Other than what you testified so far, do you
18 recall anything that was done by any of the police
19 officers who were there while you were there?

20 A "Done," meaning?

21 Q Meaning anything that they did. You
22 know, was there a search conducted?

23 Did -- you know, was force used? Was
24 anything -- any form of conduct that --

25 A Not within my sight, no. None

1 whatsoever.

2 Q Okay.

3 Were the individuals in the apartment free to
4 leave?

5 A No. At the moment, they were -- they
6 were -- everyone was told to sit right in the living
7 room area, and it wouldn't be --

8 We weren't holding them against their will, of
9 course, but we just asked them could they please
10 bear with us.

11 Q Okay. Do you know -- okay.

12 MR. THOMPSON: Withdrawn.

13 BY MR. THOMPSON:

14 Q After you left the scene, did you have
15 any further involvement with investigation of this
16 incident?

17 A None whatsoever.

18 Q After you left the scene, did you ever
19 learn anything further about the incident or the
20 investigation of the incident?

21 A I do believe I heard over the next few
22 days that the -- about trying to obtain a search
23 warrant. I didn't hear any more -- anything further
24 than that, no.

25 Q Okay. What did you hear about trying to

1 BY MR. THOMPSON:

2 Q Are there any procedures in the rules and
3 regs regarding obtaining search warrants?

4 A Yes, I believe there are.

5 Q Are there any procedures in the rules and
6 regs regarding implementation of search warrants?

7 A I would assume there would be.

8 (Pause)

9 BY MR. THOMPSON:

10 Q Are there any procedures in the rules and
11 regs concerning entry into a private home?

12 A I believe there should be.

13 Q Let's start there.

14 To the best of your knowledge, what is the
15 procedure for entry into a private home in the
16 course of an investigation?

17 A Well, the first one would be to be
18 invited --

19 Q Okay.

20 A -- by the owner or individual who
21 occupies -- they don't have to be the owner of the
22 home, but they have to have the right to allow you
23 to come in and look around.

24 Exigent circumstances. If you are in immediate
25 flight or pursuit of an individual who committed a

1 A I do not recall, yeah.

2 Q I assume the procedure says what you
3 should do if before you enter the tenant says,
4 "Please don't come in"?

5 A I would ask them why they would call me
6 there in the first place.

7 Q Okay. Is this -- does the rule --

8 MR. THOMPSON: Well, withdrawn.

9 BY MR. THOMPSON:

10 Q To the best of your knowledge, did anyone
11 at the location you reported to call the police
12 asking them to come?

13 A I have no knowledge of that.

14 Q Okay.

15 You mentioned the phrase "exigent
16 circumstances." What does that mean?

17 A Basically, what happens if you are in the
18 immediate pursuit of an individual who's committed
19 a felony, and I believe a misdemeanor, and they go
20 into a dwelling, a home.

21 You're in immediate pursuit of them, and you
22 can chase them inside without actually getting
23 permission to come inside.

24 Q When you say "immediate pursuit" --

25 A When you visually see the individual go